

261

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Civil Revision No.5862 of 2019 (O&M)
Date of Decision: 04.12.2019**

CHETAN KHARBANDAPetitioner
Vs
POOJA AHUJARespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Savi Nagpal, Advocate for
Mr. V.K. Sachdeva, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Challenge is made to the order dated 28.08.2019 passed by the Addl. District Judge, SAS Nagar (Mohali), vide which the defence of the petitioner (respondent before the trial Court) was struck off.

[2]. Perusal of the record would show that the petitioner made his appearance before the trial Court i.e. Addl. District Judge SAS Nagar (Mohali) on 23.05.2019. The impugned order was passed on 28.08.2019 i.e. on 97th day of his appearance.

[3]. Learned counsel appearing on behalf of the respondent submitted that respondent has no objection in case, one opportunity is granted to the petitioner to file written statement on the date fixed before the trial Court.

[4]. In view of facts and circumstances of the present case, rigour of **M/s SCG Contracts India Pvt. Ltd. vs. K.S. Chamankar Infrastructure Pvt. Ltd. and others, 2019(2) R.C.R. (Civil) 249 (SC)** decided by the Hon'ble Apex Court shall not apply, rather ratio of **Kailash vs. Nanhku & Ors., 2005(2) RCR (Civil) 379**, followed in **Sandeep Thapar vs. SME Technologies Private Limited, 2014(1) R.C.R. (Civil) 729** and **Salem Advocate Bar Association, Tamil Nadu vs. Union of India, AIR 2005 SC 3353** would apply to the facts of the present case as period of 120 days required for forfeiting the right of the defendant/respondent to file written statement has not elapsed from the date of first appearance of the petitioner before the trial Court (Addl. District Judge, SAS Nagar (Mohali).

[5]. For the reasons recorded hereinabove, I deem it appropriate to accept this revision petition. The impugned order dated 28.08.2019 passed by the Addl. District Judge, SAS Nagar (Mohali) is set aside. Normal consequences to follow. Petitioner may file his written statement on 06.01.2020 i.e. the date fixed before the trial Court.

December 04, 2019

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No